

STATE OF TEXAS       §  
  §  
COUNTY OF HIDALGO   §

**CONSULTING SERVICES AGREEMENT**  
**C-08-030-01-30**

**THIS CONSULTING SERVICES AGREEMENT** (the "Agreement") is made this **30<sup>TH</sup>** day of **January, 2008**, by and between, HIDALGO COUNTY, TEXAS, a political subdivision of the State of Texas ("County"), and

**Whereas**, County is required to achieve and maintain compliance with the requirements of the Texas Natural Resource Conservation Commission ("TNRCC") with respect to certain operators at **Hidalgo County Precinct No. 1**, (the "Precinct") and

**Whereas**, to insure that the standards of the TNRCC are met, it will be necessary for County to secure the assistance of a holder of a wastewater treatment plant operator's certificate, issued by TNRCC, and

**Whereas**, **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** possesses particular experience and expertise in the areas relating to compliance with TNRCC compliance, and possesses a Class A Wastewater Treatment Plant Operator's License, and

**Whereas**, County wishes to engage the services of **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** to assist County in securing and maintaining compliance with TNRCC regulations.

**NOW, THEREFORE, IN** consideration of the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows

1. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** represents and warrants to County that he has experience and expertise in the field of compliance with TNRCC regulations, as the same relate to County's operations of the Park, and that he is the current holder of a Class A Wastewater Treatment Plant Operator's Certificate issued by TNRCC, as further described in Exhibit "D" which is attached hereto and incorporated herein by reference for all purposes. In the event of the lapse, revocation or other termination of such license, this Agreement shall automatically terminate and be of no further force and effect. The fact of any such lapse, revocation or other termination of Agustin Gomez's Class A Wastewater Treatment Plant Operator's Certification shall be immediately reported by Agustin Gomez to the Hidalgo County Precinct No.1 Commissioner, and to the Hidalgo County Judge.

2. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** shall assist County in its operation of the Park and in the preparation of all reports and proposals which are necessary to assure that County is operating the Park in compliance with TNRCC regulations.

3. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** shall present monthly reports, in person to the Hidalgo County Precinct No. 1 Commissioner relating to Agustin Gomez's work under the provisions hereof and relating to the actions necessary by County in order to operate the Park in compliance with TNRCC regulations.

4. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** shall submit monthly written invoices, describing in detail satisfactory to County, the services provided during the preceding month, under the terms of this Agreement. Upon receipt and approval of such invoices, they will be submitted for payment by the County. Compensation for the services herein described shall be \$ **1,150.00** monthly, as further described in Exhibit "B" which is attached hereto and incorporated herein by reference for all purposes.

5. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** at all times, will act as an independent contractor and will not act or hold itself out to third parties as an employee or agent of County in the provision of consulting services under the terms of this Agreement. County will not withhold income tax or FICA tax on behalf of Agustin Gomez or any of his partners, employees, subcontractors or agents. In addition, none of the foregoing shall have any claim under this Agreement or otherwise against County for vacation pay, sick leave, unemployment insurance, worker's compensation, retirement benefits, disability benefits, civil service benefits, or employee benefits of any kind. Agustin Gomez will have the exclusive responsibility for the payment or provision of all such taxes and benefits and arrangement for all insurance coverages for its employees, agents, officers or partners, and shall discharge such obligations fully.

6. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** shall incur no financial obligation or any other obligation on behalf of County without prior written approval of the Commissioners' Court. Agustin Gomez will be responsible for all personal and professional expenses incurred by Agustin Gomez.

7. **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** will indemnify and hold County harmless from any and all claims, actions, liability and expenses (including costs of judgements, settlements, court costs and attorneys fees, regardless of the outcome of such claim or action) caused by, resulting from, or alleging negligent or intentional acts or omissions or any failure to perform any obligations undertaken or any covenant this Agreement, whether such act, omissions or failure was Agustin Gomez's or that of any person providing services hereunder by or through Agustin Gomez upon written notice from County, Agustin Gomez will resist and defend at its own expense, and by counsel reasonably satisfactory to County, any such claim or action. Agustin Gomez will carry proper insurance with County named as an additional named insured to the extent such is reasonably available.

If to County:

Juan D. Salinas, III  
County Judge  
100 E. Cano, 2<sup>nd</sup> Floor  
Edinburg, Texas 78539

If to Company:

Agustin Gomez  
d/b/a Agustin Gomez Waste Water Services  
P.O. Box 1012  
Elsa, Texas 78543

Each notice, demand, request or Communication which shall be delivered or mailed in the matter described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

8. This Agreement will be for a period of one (1) year with the County's option to renew for an additional two (2) one (1) year periods, under the same rates, terms and conditions and with the County's sole discretion to extend this agreement for an additional sixty (60) day grace period at the end of the term for unforeseen delays in the award of the new bid and contingent upon cost to remain unchanged as set forth in Exhibit "B" attached hereto, unless this Contract is earlier terminated pursuant to the provisions herein, whichever occurs first with or without cause on thirty (30) days written notice to **Agustin Gomez d/b/a Agustin Gomez Waste Water Services**.

9. Following the expiration or termination of this Agreement, **Agustin Gomez d/b/a Agustin Gomez Waste Water Services** agrees to do nothing that may interfere with a County contract or in the operation of the Program.

10. Miscellaneous Provisions.

10.01 **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is a conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive, or judicial regulation, order or decree, or amended thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

10.02 **No Waiver.** No Waiver by County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

10.03 **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and **Agustin Gomez d/b/a Agustin Gomez Waste Water Services**, and not otherwise.

10.04 **Texas Law to Apply.** This Agreement shall be construed under any accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

10.05 **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the

addresses set forth below, or at such other address as may have been therefore specified by written notice delivered in accordance herewith:

10.06 **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

10.07 **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

10.08 **Assignment.** This Agreement shall not be assignable by either party hereto.

10.09 **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provisions or paragraph hereof.

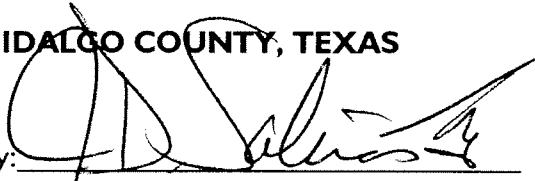
10.10 **Gender and Number.** All pronouns used in this agreement shall include the other gender, whether used in the masculine, feminine, or neuter gender, and the singular shall include the plural whenever and so often as may be appropriate.

10.11 **Insurance.** Company shall provide insurance in force on all its vehicles and all persons connected with providing services under this Contract naming County as an additional insured (with coverages and in the amounts described on Exhibit "C" attached hereto and incorporated herein at this point for all purposes), and shall furnish to County certificates of such insurance coverage

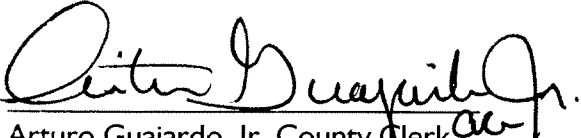
10.12 **Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of Buyer under this Agreement, Buyer may terminate this Agreement upon sixty (60) days written notice to Seller. Buyer agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of Buyer pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903 (Vernon Supp. 1996).

**EXECUTED** effective as of the day and year first written above.

**HIDALGO COUNTY, TEXAS**


By:   
Juan D. Salinas, III, County Judge

**ATTEST:**

  
Arturo Guajardo, Jr., County Clerk

**COMPANY:**

Agustin Gomez d/b/a  
Agustin Gomez Waste Water Services

By:   
Printed Name: Agustin Gomez  
Title: Owner

Approved on Commissioners' Court January 29, 2008

**APPROVED AS TO FORM**

Atlas & Hall, L.L.P.

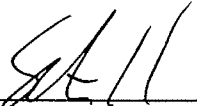
By:   
\_\_\_\_\_

EXHIBIT "A"  
SPECIFICATIONS

## EXHIBIT "A"

Hidalgo County Precinct No.1  
"Waste Water Management System"  
RFSQ NO. 2008-011-01-18CGV  
JANUARY 18, 2008

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### SCOPE OF SERVICES:

Hidalgo County Precinct No. 1 is currently soliciting sealed quotes from certified Waste Water Collection Operator with a Class "B" License for "Waste Water Management System". The awarded vendor will service, maintain and monitor the operation waste water facility at Delta Lake Park.

### REQUIREMENTS: VENDOR MUST

1. Be Class "A" Certified and must submit copies of certifications;
2. Have knowledge of pipes and their fittings, pvc, galvanize iron, black iron, concrete and plastic sewer lines;
3. Keep records of all sludge disposal activities;
4. Inspects the facility each week and maintain a record of these inspections;
5. Observe safety practices at all times
6. Provide all necessary equipment, tools, or any other materials required for service;
7. Test water samples gathered from the facility;
8. Present monthly reports to Hidalgo County Precinct No. 1 Commissioner;
9. Keep the facility in TNRCC compliance at all times

### QUOTES MUST HAVE:

The vendor must provide a brief summary or overview of the services to be provided including:

1. The number of staff to be involved in the project;
2. An overview of the services requested
3. **The bidder who is awarded will ensure that all insurance documentation (see Exhibit "C") will be submitted to the Hidalgo County Purchasing Department at the time of quote submission. Bonding and worker's compensation documentation shall also be provided to the Hidalgo County Purchasing Department for qualification of quote. Unless an insurance documentation is submitted, quote will not be considered.**

### PROPOSER'S AFFIDAVIT:

Respondents to this RFSQ must submit a signed Proposer's Affidavit (Attached herein in Exhibit D) certifying that the submission is (1) not the result of Collusion as described in the Proposer's Affidavit; (2) that the Respondent does not have a Conflict of Interest as described in the Proposer's Affidavit; or that the Respondent has not and will not attempt to lobby directly or indirectly as described in the Proposer's Affidavit.

**QUOTE DEADLINE:**

Deadline for quote submission is Friday, January 18, 2008 at 3:00 P.M. to be delivered to the Hidalgo County Purchasing Department, 2802 S. Business Hwy 281, New Administration Building, Edinburg, Texas 78539.

**TERM:** The contract shall be for an initial period of one (1) year with County's option to renew for two (2) additional, one (1) year terms, under the same rates, terms and conditions.

Hidalgo County reserves the right to continue this bid for a sixty (60) day grace period at the end of the contract term to allow for continued service due to any unforeseen delay in award of new bid for the next contract term.

**ADDITIONAL INFORMATION:**

All costs and expenses associated with the preparation and submission of (bids, proposals and/or quotes) shall be the responsibility of the bidder and no reimbursements for such charges or expenses shall be passed onto Hidalgo County.

**EXHIBIT "B"**  
**VENDOR'S BID**

EXHIBIT "B"

HIDALGO COUNTY PRECINCT NO. 1

"WASTE WATER MANAGEMENT SYSTEM"

RFSQ NO.: 2008-011-01-18CGV

BID/QUOTE PAGE

I, Agustin Gomez, AM SUBMITTING A QUOTE/BID OF:  
PRINT NAME

PRICE PER WEEK/MONTH: \$ 1,150/MONTH

OTHER FEES (If any, please explain or describe): \$ \_\_\_\_\_

Company Name:

Agustin Gomez Wastewater Services

Address:

P.O Box 1012

City/State/Zip:

ELSA TX 78543

Phone/ Fax No.:

(956) 373-3124 (FAX) 292-2044

Cell Phone No.:

(956) 373-1220

Authorized Signature:

Agustin Gomez

Printed Name:

Agustin Gomez

Title:

Certified Operator

Date:

1-11-08